S.B.CIVIL WRIT PETITION NO.396/1996
Iqbal vs. The State of Rajasthan & Ors.

DATE OF ORDER :10/10/2007

HON'BLE MR. BHANWAROO KHAN J.

Mr.Harish Purohit, for the petitioner
Mr.Shyam Ladrecha, Addl. Government Advocate
Mr.Vivek Shrimalee, Advocate for Mr.Ravi Bhansali for the respondents

The instant writ petition is directed against the order dated July 20, 1995 passed by the government exercising the power under Section 12(5) of the Industrial Disputes Act (for short the Act) in not referring the dispute raised by the petitioner for adjudication by the Labour Court.

It is the case of the petitioner that he initially entered into services of the respondents on 26.3.1971 as daily wager of Rs.5/- per day. Thereafter, he was conferred the status of long temporary employee and he was being paid Rs.150/- per month. He was working with the respondents as a Line Man. As he was continue in service and as per Singh & Sancheti Award, he was placed in the Grade of Rs.250-285/- as Assistant-II and was made permanent, which was illegal and without any basis because as per provisions of the Award, he was to be given the Pay Grade of Line Man II, which was not done. Hence, he made a representation before the Conciliation Officer, who in turn after

providing hearing to the petitioner referred the matter to the government to be forwarded to the Labour Court for adjudication. But the government in turn refused to forward the dispute for adjudication to the Labour Court on the ground that dispute being raised after long delay of 22 years. Aggrieved by the said order refusing to refer the dispute for adjudication, this writ petition has been filed.

Heard learned counsel for the parties.

It was argued by the learned counsel for the petitioner that the State Government has no jurisdiction or authority to refuse reference on the ground that the question requiring adjudication is belated, as the Act no where proscribes a time limitation for referring the dispute raised by a workman. The State Government has no power or authority to decide the referred dispute on merit or on the basis of the delay.

Per contra, learned counsel for the respondents argued that government is not precluded from considering prima facie the merit of the dispute and has every power or authority to refuse the matter referred under Section 10 of the Act and if the reference so made is patently frivolous or is belated, the appropriate government may refuse to make a reference. The learned counsel has relied upon the decision of the Apex Court in Bombay Union of Journalists & Ors. vs. The State of Bombay & Anr. reported in AIR 1964 SC 1617 and argued that there is

nothing wrong or perverse in the order of refusal of reference made by the government.

The matter to be referred by the government for adjudication is completely and squarely covered by the judgment dated 12.8.1996 decided by this Court in S.B.Civil Writ Petition No.924/1996 (Mohammed Saddiq Vs. The State of Rajasthan & ors). The learned counsel for the petitioner also agrees that if the appropriate government refused to make a reference for industrial adjudication of a belated claim, the government acts within its jurisdiction and the orders passed by the government is not in any case contrary to the provisions of law.

Hence, the writ petition of the petitioner in the light of aforesaid cited judgment deserves to be dismissed.

Consequently, the writ petition stands dismissed. No order as to the costs.

(BHANWAROO KHAN) J.

BKS/-